IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

&
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 6179 of 2005

Between:

J.Srinivasa Rao, S/o.Late J.Lakshmaiah,
R/o.16-2-738/A/H, flat No.1, Sri Satyasai Apartments,
Asmangadh, Malakpet, Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep.by its Prl.Secretary Transport, Roads & Buildings(TR-II) Dept., Secretariat, Hyderabad.
2 The Secretary, Regional Transport Authority, Hyderabad East, Malakpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or order, direction more particularly one in the nature of writ of Mandamus, declaring the impugned G.O. Ms. No. 152, Transport, Roads & Buildings (TR-II), dt 1-12-2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P. Motor vehicles taxation Act 1963 and consequently direct the respondents to collect tax of Rs.1,000/- for the petitioner's vehicle bearing Registration No. AP 11 W 9909 for quarter as per G.O.Ms.No.216 Transport, Roads & Buildings (TR-II) dt.04-12-1997 and to pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.B.CHANDRA SHEKHAR

Counsel for the Respondents: GP FOR TRANSPORT

WRIT PETITION NO : 7985 of 2005

Between:

1 D. Vishnuvardan Rao, S/o. Veera Badrayya,
Owner of Maxi Cab No. AP 36V 2085, R/o. LIG 36/9, APHB Colony,
Hanamakonda, Warangal District.
2 Gaddam Sampath Kumar, S/o. Kumarswamy,
Owner of Maxi Cab No. AP 36V 2732, R/o. D.No. 4-2-265,
Subash Nagar, Hanamakonda, Warangal District.
3 G. Venue, S/o. Ayodya Ramayya,
Owner of Maxi Cab No. AP 36V 5884, R/o. Nayeem Nagar,
Hanamakonda, Warangal District.
4 G.Raghu, S/o. Sager Reddy,
Owner of Maxi Cab No. AP 36V 2173, R/o. Gandhi Nagar,
Hanamakonda, Warangal District.
5 P.Paramesh, S/o. Vishu Vardhan,
Owner of Maxi Cab No. AP 36V 2257, R/o. D.No. 15-2-102, Rangam pet,
Warangal District.
6 A. Venkat Swamy, S/o. Yellaiah,
Owner of Maxi Cab No. AP 36V 6035, R/o. D.No. 2-34/1, Station Gunpoor

Village & Manmdal, Warangal District.
7 A. Satyamma, W/o. Chandramouli,
Owner of Maxi Cab No. AP-36-V-2288, R/o. D.No. 16-10-1316,
Shiva Nagar, Warangal, Warangal District.
8 S.K. Dawood Basha, S/o. SK Bude Saheb,
Owner of Maxi Cabs Nos. AP-07-TT-2314 & AP-07-TT-2374, R/o. D.No.

14-4-128, 4th lane, Pothuri Vari Thota, Guntur, Guntur District.
9 S.K. Dawood Basha, S/o. SK Bude Saheb,
Owner of Maxi Cab No. AP-11-W-4591, R/o. 27-33-26, Governer Pet,

Vijayawada, Krishna District.
10 S.K. Ameer Pasha, S/o. Mohamood Ali,
Owner of Maxi Cab No. AP-16-TU-8077, R/o. D.No. 4-1-23,
Labbipet, Vijayawada, Krishna District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Rep by its Principal Secretary,
Transport, Roads & Buildings (TR-II) Department, Secretariat, Hyderabad.
2 The Regional Transport Officer, Regional Transport Authority,
Warangal, Warangal District.
3 The Regional Transport Officer, Regional Transport Authority,
Guntur District.
4 The Regional Transport Officer, Regional Transport Authority, Krishna

District.

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or order, direction more particularly one in the nature of writ of mandamus, declaring the impugned G.O. Ms. No. 152, Transport, Roads & Buildings (TR-II), dt. 1-2-2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P. Motor Vehicles Taxation Act 1963 and consequently direct the respondents to collect tax of Rs. 1,000/- for the petitioners vehicles bearing Registration Nos. as mentioned in Annexure Oil filed along with the writ petition, for quarter as per G.O. Ms. No. 216 Transport, Roads & Buildings (TR-II), dt. 4-12-1997 and to pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.K. MAHESWARA RAO

Counsel for the Respondents : GP FOR TRANSPORT

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WRIT PETITION NO : 8057 of 2005

Between:

1 V.Mani W/o.V.Ramesh, Owner of Tayota Qualis bearing No. A.P.16 TU

5665 & Owner of Scorpio bearing No. AP 16 TU 3593, R/o.H.No.74-6/2-3/5,

Gottipati Bramaiah Veedi, Patamata, Vijayawada-7.

2 S.Yashoda Lavanya, W/o.S.Ramesh,Owner of Tayota Qualis beasring No.

AP 16 TU 6408 & AP 16 TU 8316, R/o.Om Enterprises,
D.No.11-25-146, Main Bazar, Vijayawada.

3 P. Nagaveni, W/o.Kanna Rao,Owner of Tayota, Qualis bearing No. AP 20 V

2792, R/o.D.No.48-11-20, Gummadi Hights Appts.,
IVth floor, T.F.C.Ramavarapaddu, Vijayawada.

4 A.Srinivas, S/o.Koteswar rao,Owner of Tayota Qualis bearing No.AP 7 X

5451, R/o.Ramachandra Pruam Village, Mangalagiri Post, Guntur District.

PETITIONERS

AND

1 The Government of Andhra Pradesh, rep. by its Prl. Secretary, Transport,

Roads & Buildings, (TR-II) Dept., Secretaraiat, Hyderabad.

2 The Secretary, Regional Transport Authority, Krishna, Vijayawada.

3 The Secretary, Regional Transport Authority, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order more particularly in the nature of writ of Mandamus declaring the G.O.Ms.No.152 Transport, Roads & Building, (TR-II) dated 01-12-2001 as illegal, arbitrary, without jurisdiction and against to the A.P. Motor Vehicles Act 1963 and consequently direct the Respondents to collect tax @ Rs.1,000/- for the petitioners vehicles bearing No.AP 16 T 5665 (Tayota qualis) AP 16 TU 3593 (Scorpio), AP 16 TU 6408 (Tayota Qualis) AP 16 TU 8316 (Tayota qualis,) AP 20 V 2792 (Tayota qualis,) AP 7 X 5451 (Tayota qualis) and pass such other order or orders as the Hon'ble court may deem fit and proper in the interest of justice.

Counsel for the Petitioners: MR. K.VENKATA REDDY, P.S.P.SURESH KUMAR

Counsel for the Respondents: GP FOR TRANSPORT

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WRIT PETITION NO : 8073 of 2005

Between:

1 D.Srinivas Reddy, S/o. Veera Reddy, owner of Vehicle bearing No.AP IU

3717.
2 B.Tirupathi, S/o. Lingaiah, Owner of Vehicle bearing No. AP 15V 5684.
3 N.Manamma, W/o. Sammiah,Resident of 3-395/1, Owner of Vehicle

bearing No.AP 1W 1164.
4 G.Rajanna, S/o.Parvathalu, Owner of Vehicle bearing No. A.P.IU 3706.
5 G.Bheemaiah, S/o.Mallaiah, Owner of Vehicle bearing No.AP IU 5637.
6 Ch.Satyanarayana, S/o. Pochaiah,Owner of Vehicle bearing No.AP IU

3660.
7 B.Ravi, S/o. Sambaiah, Owner of Vehicle bearing No. AP IU 4560.

8 Y.Rajaiah, S/o. Ramaiah,Owner of Vehicle bearing No.AP IU 7307.
9 K.Santhosh, S/o. Komuraiah, Owner of Vehicle bearing No. AP 15V

5770- resident of Godavarkhani, Karimnagar District.
10 G.Thirupathi, S/o.Mallaiah, Owner of Vehicle bearing No. A.P. IU 4600.
11 Vyda Madhava Rao, S/o.Narayana, Owner of Vehicle bearing No.AP IU

3939.
12 Rajesh Kumar Vyas, S/o.Rameshwaram, Owner of Vehicle bearing

No.A.P IU 3928.
13 R.Venkata Ramana Chary, S/o. Mogilaiah, Owner ofVehicle bearing

No.AP IU 3769.
14 R.Venkata Ramanachary, S/o.Mogilaiah, Owner of Vehicle bearing

No.AP 1 U 4449

15 G.Thirupathi, S/o.Ramaiah,Owner of Vehicle bearing No.AP 9W 8703.
16 M.Srinivas, S/o.Narasaiah, Owner of Vehicle bearing No.AP *U 3682.*
All are residents of Mancherial, Adilabad District.

..... PETITIONERS

AND

1 The Govt. of A.P., rep. by its Principal Secretary, Transport, Roads & Buildings (TR-II) Dept, Secretariat, Hyderabad.
2 The Secretary, Regional Transport Authority, Mancherial, Adilabad District.
3 The Secretary, Regional Transport Authority, Karimnagar, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ, order or direction, declaring the impugned G.O.Ms.No.152, Transport, Roads & Buildings (Tr-II), dt.01/12/2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P.Motor Vehicles Taxation Act 1963 and consequently direct the respondents to collect tax of Rs.1,000/- for the petitioner vehicles per quarter as per G.O.Ms.No.216, Transport, Roads & Buildings (Tr-II), dt.04/12/1997.

Counsel for the Petitioners : MR.D.BHASKAR REDDY

Counsel for the Respondents : GP FOR TRANSPORT

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WRIT PETITION NO : 8080 of 2005

Between:

1 S. Baddrappa, S/o. Veerappa, R/o. H.No. 2-98/1, Near Old Police, Station Gajwal, Medak District.
2 Ch. Sanjeeva Reddy, S/o. Jaganath, R/o. H.No. 14-52, Gajwal, Medak District.
3 B. Rajanikanth, S/o. Rajaiah, R/o. LIG 29, APHB Colony, Gajwal, Medak District.
4 K. Kishan, S/o. Sanakaraiah, 10-144, Gajwal, Medak District.
5 Ch. Yadagiri, W/o. Pochaiah, H.No.2-52, Bejjam Village, Gajwal, Medak District.
6 K. Veeresham, S/o. Rajaiah, H.No. 17-83, Gajwal, Medak District.
7 Ch. Sridhar, S/o. Jajeswar Rao, H.No. 11-37, Bharath Nagar, Gajwal, Medak District.
8 M. Krishan, S/o. Rajaiah,

R/o.H.No. 2043, Pidichedu, Gajwal, Medak District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Rep by its Principal Secretary, Transport, Roads & Buildings (TR-II) Department, Secretariat, Hyderabad.
2 The Secretary, Regional Transport Authority, Siddipet, Medal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or order, direction more particularly one in the nature of Writ of Mandamus, declaring the impugned G.O.Ms. No. 152, Transport, Roads & Buildings (TR.II) dt. 1-12-2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P. Motor Vehicles Taxation Act 1963 and consequently direct the respondents to collect tax of Rs. 1000/- for the petitioners vehicles bearing Registration Nos. AP 1 U 4578, AP 25 U 1264, AP 11 W 5711, AP 23 U 95, AP 28V 0638, AP 23U 60, AP 25U 2007, and AP 23U 0382 for quarter as per G.O. Ms. No. 216 Transport, Roads & Buildings (TR.II) dt. 4-12-1997 and pass such other orders as are necessary in the interest of justice.

Counsel for the Petitioners: SMT.S.SWARNA REDDY

Counsel for the Respondents: GP FOR TRANSPORT

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WRIT PETITION NO : 8165 of 2005

Between:

1 Vinod Kumar .R, S/o. late R. Krishnaiah,
R/o. H.No. 3-22-102, Raja Street, Kollapur, Mahabubnagar District.
(Maxi Cab bearing No. AP 22U 8817)
2 Srinivasa Rao, G S/o. Purnachander Rao,
R/o. H.No. 1-10-79, Kollapur, Mahabubnagar District.
(Maxi Cab bearing No. AP 22U 9156)
3 J. Srinivas Reddy, S/o. Lakshmi Reddy,
R/o. H.No. 3-22-95, Kota Street, Kollapur, Mahabubnagar District.
(Maxi Cab AP 22V 0556)

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Rep by its Principal Secretary, Transport, Roads and Buildings (TR-II) Secretariat, Hyderabad.

2 The Secretary, Regional Transport Authority,
Mahabubnagar, Mahabubnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or order, direction more particularly one in the nature of writ of Mandamus, declaring the impugned G.O. Ms. No. 152, Transport Roads & Buildings (TR-II), dt. 1-12-2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P. Motor Vehicles Taxation Act 1963 and consequently direct the respondents to collect tax of Rs. 1,000/- for the petitioners vehicle bearing Registration Nos. AP 22U 8817, AP 22U 9156 and AP 22V 0556 for quarter as per G.O. Ms. No. 216 Transport, Roads and Buildings (TR-II), dated 4-12-1997 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioners: MR.P.N.ARUN KUMAR

Counsel for the Respondents: GP FOR TRANSPORT

WRIT PETITION NO : 8166 of 2005

Between:

1 J. Lakshmaiah, S/o. Lakshmi Rangaiah, D.No.5-75-12,
3rd Line, Pandaripuram, Guntur, Guntur District.
(Owner of the Vehicle bearing No. AP 7 X 3959)
2 V.V. Subba Rao S/o. Peda Gurunadham,
R/o. 7th Line, at Agraharam, Guntur, Guntur District.
(Owner of the Vehicle bearing Nos. AP 7 X 5866 and A.P. 27 U 1578)
3 M. Narasimha Reddy S/o. Sambi Reddy,
R/o. Maruthinagar, Navuloor (P), Mangalagiri (M), Guntur District.
(Owner of the Vehicle bearing No. AP 7 X 6010)
4 M. Satyanarayana S/o. Vara Prasad rao,
R/o. Muthyalareddy Nagar, Guntur District.
(Owner of the Vehicle bearing No. AP 7 TT 5559)
5 D. Dasaradha Rami Reddy S/o. Perreddy,
R/o. Tyagraj Road, Kontipadu, Guntur District.
(Owner of the Vehicle bearing No. AP 7 T 6232)
6 S. Lingamma W/O. Linga Babu,
R/o. Kothapeta, Vijayawada, Krishna District.
(Owner of the Vehicle bearing No. AP 16 TU 9790)
7 G. Sambasiva Rao S/o. Sri Ramulu,
R/o. Prakashnagar, Gorantla, Guntur District.
(Owner of the Vehicle bearing No. AP 7 X 9006)
8 B. Srinivasa Reddy S/o. Reddamma Reddy,
R/o. Nallapadu, Guntur District.
(Owner of the Vehicle bearing No. AP 7 X 7093)
9 Ch. Padmavathi W/o. Sudhakara Rao
R/o. Saibaba Road, 2nd Line, Santhinagar, Guntur District.
(Owner of the Vehicle bearing No. AP 7 TT 2224)

10 D. Srinivasa Rao S/o. Lakshmi Koteswara Rao
R/o.15/1, Arundelpet, Guntur District.
(Owner of the Vehicle bearing Nos. AP 31 U 3328 & AP 7 TT 3336)
11. G. Jyothirmai W/o. Sambasiva Rao,
R/o. Venkateswara Colony, Gorantla, Guntur District.
(Owner of the Vehicle bearing No. AP 7 TT 4446)
12 C .V. Sivaram S/o. Basavaiah
R/o. Amaravathi, Guntur District.
(Owner of the Vehicle bearing No.AP 7-X-3759)

..... PETITIONERS

And:

1 The Government of Andhra Pradesh, Rep,. by its Principal Secretary,
Transport, Roads and Buildings (TR-II) Department, Secretariat, Hyderabad.
2 The Secretary, Regional Transport Authority, Guntur,
Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ Order or Direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the Impugned G.O.Ms.No. 152, Transport, Roads and Buildings (TR-II) dt. 01-12-2001 as illegal, arbitrary, without jurisdiction and contrary to the 1st Schedule of the A.P. Motor Vehicles Taxation Act, 1963 and consequently direct the respondents to collect Tax of Rs.1,000/- from the petitioners maxi cabs vehicles bearing Registration Nos. AP 7 X 3959, AP 7 X 5866 and A.P. 27 U 1578, AP 7 X 6010, AP 7 TT 5559, AP 7 T 6232, AP 16 TU 9790, AP 7 X 9006, AP 7 X 7093, AP 7 TT 2224, AP 31 U 3328 & AP 7 TT 3336, AP 7 TT 4446 and AP-7-X-3579 respectively per quarter as per G.O. Ms. No. 216, Transport, Roads and Buildings (TR-II), dt. 04-12-1997 and to pass such other order or orders as this Hon'ble Court deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.A.JAGANNATHA RAO

Counsel for the Respondents.: GP FOR TRANSPORT

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WRIT PETITION NO : 8179 of 2005

Between:

1 V.Sivaramakrishna Reddy, s/o Nagireddy,
r/o Brudavan Gardens, Guntur.
2 K.Sridhar, s/o Umamaheswara Rao,
r/o Vidyanagar, Guntur.
3 G.Ravi Kumar, s/o Satyanarayana,
r/o Syamalanagar, Guntur.
4 B.Ramakrishna, s/o Rama Rao,
r/o Chandramoulinagar, Guntur.

5 P.Krishna Reddy, s/o Kotireddy,
r/o Brodipet, Guntur.
6 G.Chitraranjan Reddy, s/o Gangireddy,
r/o Garapadu, Guntur District.
7 M.Srinivasa Rao, s/o Satyanarayana Murthy,
r/o Ankireddypalem, Guntur District.
8 V.Hemasundara Rao, s/o Maheswara Rao,
r/o Vidyanagar, Guntur.
9 Bonthu Srinivasa Reddy, s/o Radhakrishna Reddy,
r/o Munnangi Village, Guntur District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, rep., by its Prl. Secretary, Transport,

Roads & Buildings (Tr.11) Department, Secretariat, Hyderabad.
2 The Secretary, Regional Transport Authority, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or order, direction more particularly one in the nature of a writ of Mandamus, declaring the impugned G.O.Ms.No.152, Transport Roads and Buildings (Tr.11) dt.01-12-2001 as illegal, arbitrary, without jurisdiction and contrary to the 1st schedule of the A.P.Motor Vehicles Taxation Act 1963 and consequently direct the respondents to collect tax of Rs.1000/- for petitioners vehicles bearing Registration Nos.AP.07/TT.4160, AP.7/X.4515, AP.7/TT-1881, AP.7/X-4185, AP.07/X-9515, AP.7/T.7929, AP.7/TT-4546, AP.7/X.1854 and AP.7/V.6446 respectively for quarter as per G.O.Ms.No.216, Transport, Roads & Buildings (TR.11) dt.4-12-1997.

Counsel for the Petitioner: MR.G.PEDDA BABU

Counsel for the Respondent No.: GP FOR TRANSPORT

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WRIT PETITION NO : 8229 of 2005

Between:

1 Ch. Satya Sai Babu, S/o. Seetharamaiah,
R/o. Ramireddypeta, Narsaraopeta, Guntur District,
(Owner of the Vehicle bearing AP-7-U-8687)
2 M. Innaiah Reddy, S/o. Chennaiah,
R/o. 15/29, Endugumpalem Village, Nadendla Mandal,

Guntur District, (Owner of the Vehicle bearing AP-7-U-7526)
3 I. Venkata Subba Rao, S/o. Ramaiah,
R/o Yerraguntapalem Village, Prakasam District.
(Owner of the Vehicle bearing AP-7-U-5609)

4 Y. Appireddy, S/o. Rami Reddy,
R/o. Lankelapurapadu Village, Muppala Mandal,

Guntur District,Owner of the Vehicle bearing AP-7-W-4118)
5 V. Hemalatha, W/o. Rama Rao, R/o. Ramireddypeta,

Narsaraopeta, Guntur District. (Owner of the Vehicle bearing

AP-7-U-8251)
6 N. Anjaiah, S/o. Ramulu, R/o. Yendugumpalem Village,

Nadendla Mandal, Guntur District
(Owner of the Vehicle bearing AP-7-U-6566)

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Rep by its Principal Secretary,
Transport, Roads and Buildings (TR-II) Department, Secretariat, Hyderabad.
2 The Secretary, Regional Tranport Authority, Narsaraopeta, Guntur District.
3 The Secretary, Regional Tranport Authority, Ongole, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ Order or Direction more particularly one in the nature of WRIT OF MANDMAUS, declaring the impugned G.O.Ms. No. 152, Transport, Roads and Buildings (TR-II), dt. 01-12-2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule direct the respondents to collect Tax of Rs. 1,000/- from the petitioners maxi cabs vehicles bearing Registration Nos. AP-7-U-8687, AP-7-U-7526, AP-7-U-5609, AP-7-W-4118, AP-7-U-8251, AP-7-U-6566 respectively per quarter as per G.O.Ms.No. 216, Transport, Roads and Buildings (TR-II) dt. 04-12-1997 and to pass such other order or orders as this Hon'bl e Court deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR. A.JAGANNATHA RAO

Counsel for the Respondent No.: GP FOR TRANSPORT

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WRIT PETITION NO : 8264 of 2005

Between:

1 B. Narayana Rao S/o Visweshwar Rao, Owner of Vehicles bearing No.AP 24

V 2241, R/o 1-12-143, Pearla Kottam, Huzur Nagar, Nalgonda District.
2 V. Madhusudhan Rao S/o Janaki Ramaiah, Owner of Vehicles bearing No.AP

24 V 994, resident of 14-132, Lingagiri Road, Huzur Nagar, Nalgonda District.
3 P. Vishwakanth S/o Dayanand, Owner of Vehicles beasring No. AP 24 V

1234, R/o 16-19, Near Saibaba Mandir, Huzur Nagar, Nalgonda District.
4 G. Chandra Shakar Rao S/o Seetha Ramaiah, Owner of Vehicles bearing

No.AP 24 V 4187, R/o 29-14, Deexit nagar, Huzur Nagar, Nalgonda District
5 Ch. Venugopal Rao S/o Rangaiah, Owner of Vehicles bearing No. AP 24 V

1369 R/o 17-40, Near Public Club, Huzur Nagar, Nalgonda District.
6 K. Sridhar S/o Subash, Owner of Vehicles bearing No. A.P. 24 U 7888,

resident of Huzur Nagar, Nalgonda District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, rep by Principal Secretary, Transport,

Roads & Buildings (TR-II) Dept., Secrtarait, Hyderabad
2 The Secretary, Regional Transport Authority, Nalgonda, Nalgonda District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any Writ or order direction more particularly one in the nature of writ of Mandmaus declaring the impugned G.O.Ms. No. 152, Transport, Roads & Buildings (TR-II) dt 1-12-2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P. Motor Vehicle Taxation Act 1963 and consequently direct the respondents to collect tax of Rs. 1,000/- for the petitioners' vehicles for quarter as per G.O.Ms. No. 216 Transport, Roads & Buildings (TR-II) dt 4-12-1997 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners : MR.D.KRISHNA REDDY

Counsel for the Respondents: GP FOR TRANSPORT

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WRIT PETITION NO : 8272 of 2005

Between:

1 B.N. Venkata Reddy S/o B. Narayanappa,
R/o 19-3-3-7A, Jayanagar, Lakshmiparam, Tirupati, Chittoor District.
2 M. Anasuya, W/o Raghunadha Reddy, R/o 19-4-31/11E, 2nd Road, S.T.V.

Nagar, Tirupati Chittoor District.
3 G. Nirmala W/o G. Chandrababu, R/o 6-1-2 NA, R&B Guest House, Chenna

Reddy Colony, Tirupati, Chittoor District.
4 M. Sarath Kumar S/o M. Gopal Reddy, R/o 8-135, Akuthota Street, Tirupati,

Chittoor District.
5 B. Muni Krishna Reddy S/o Raja Reddy
r/o 6-10-329, Singala Gunta, Tirupati, Chittoor District

..... PETITIONERS

AND

1 The Government of A.P., rep by Principal Secretary, Transport, Roads &

Buildings (TR-II) Department, Secretariat, Hyderabad .
2 The Secretary, Regional Transport Authority, Tirupati, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any Writ or order, direction more particularly one in the nature or Writ of Mandmus, declaring the impugned G.O.Ms. No. 152, Transport, Roads & Buildings (TR-II) dt 1-12-2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P. Motor Vehicles Taxation Act 1963 and consequently direct the respondents to collect tax of Rs. 1,000/- for the petitioners vehicles bearing Registration Nos. AP 03.U.4060, AP 03.V.7972, AP.3.A. 6657 AP.27.U.7762 and AP.03.V.7434, respectively for quarter as per G.O. Ms. No. 216 Transport, Roads & Buildings (TR-II), dt 4-12-1997 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners : MR.P.VENKATA RAO

Counsel for the Respondents : GP FOR TRANSPORT

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WRIT PETITION NO : 9693 of 2005

Between:

1 Y. Nageswara Rao, S/o Krishnaiah,Owner

of Vehicles bearing Nos. AP 7 W

4449 AP 7 U 9843 anhd AP 7W 1909,

R/o Machavaram, Guntur District.
2 V. Satyanarayana, S/o Pulla Rao,

Owner of Vehicle bearing No. AP 27 U 6564,
R/o Machavaram, Guntur District.
3 M. Satyanarayana, s/o Ramulu,
Owner of Vehicle bearing No. AP 1 T 5604

R/o Machavaram, Guntur District.
4 C. Saida Reddy, S/o Venkat Reddy,
Owner of Vehicle bearing No. AP 24 U 8060

R/o Karlapadu, Guntur District.
5 K. Nageswar Rao, S/o Balaiah,
Owner of Vehicle bearing No. AP 7 W 3415

R/o Renta Chinthala, Guntur District.
6 A. Venkat Reddy, S/o Rami Reddy,
AP 36 V 3547 & AP 7X 8686.
7 K. Sreenubabu, S/o Venkateswarlu,
Owner of Vehicle bearing No. AP 27 U 6202

R/o Dachepalli, Guntur District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, rep. by its Principal Secretary,
Transport, Roads & Buildings (TR.II) Department, Secretariat, Hyderabad.
2 The Secretary, Regional Transport Authority,
Narasaraopeta, Guntur District.
3 The Secretary, Regional Transport Authority,
Guntur. Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ or order, direction more particularly one in the nature of writ of mandamus, declaring the impugned G.O.Ms.No. 152, Transport, Roads & Buildings (TR-II), dt. 01-12-2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P. Motor Vehicles Taxation Act 1963 and consequently direct the respondents to collect tax of Rs. 1,000/- for the petitioners' vehicles for quarter as per G.O.Ms. No. 216 Transport, Roads & Buildings (TR.II), dt. 4-12-1997 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.B.CHANDRA SHEKHAR

Counsel for the Respondents: GP FOR TRANSPORT

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WRIT PETITION NO : 9694 of 2005

Between:

1 K. Sreenubabu, S/o. K. Venkateswarlu,Owner of vehicle bearing No. AP 20

U 8706 R/o. Dachepalli, Guntur District.
2 D.Venkata Satyanarayana, S/o. D. Saidaiah, Owner of vehicle bearing No.

AP 7 W 2772 R/o. Dachepalli, Guntur District.
3 Y. Venkata Rami Reddy, S/o. Narsi Reddy, Owner of vehicle bearing No. AP

7 W 3418 R/o. Dachepalli, Guntur District.
4 B. Venkateswara Reddy, S/o. Saida Reddy, Owner of vehicle bearing No.AP

36 V 3787 R/o. Dachepalli, Guntur District.
5 S. Sreenivasa Rao, S/o. Padma Rao, Owner of vehicle bearing No. AP 27 U

6155 R/o. Dachepalli, Guntur District.
6 B. Ramanjaneyulu, S/o. Saidaiah,Owner of vehicle bearing No. AP 7 U 9718
R/o. Dachepalli, Guntur District.
7 K.Ramesh, S/o. Venkataramaiah,Owner of vehicle beasring No. AP 7 W

4380 R/o. Dachepalli, Guntur District.
8 Shaik Mahaboob, S/o. Ibrahim, Owner of vehicle bearing No. MH 27 0057,
R/o. Dachepalli, Guntur District.
9 Shaik Peravali, S/o. Shaik Saidulu,Owner of vehicle bearing No.AP 7 U

9443, R/o. Dachepalli, Guntur District.
10 Shaik Mohd Jani, S/o. Shaik Ismail, Owner of vehicle bearing No.AP 7 W

3390, R/o. Dachepalli, Guntur District.
11 U. Veeraiah, S/o. Guravaiah,R/oDachepalli, Guntur District.
12 D. Venkata Guravaiah, S/o. China Saidaiah, Owner of vehicle bearing No.AP

7 W 3385 & AP 7 W 3420 R/o. Dachepalli, Guntur District.
13 M. Nageswara Rao, S/o. Balaiah, Owner of vehicle bearing No. AP 7 W

2678, R/o. Dachepalli, Guntur District.
14 T. Rami Reddy, S/o. Arjun Reddy,Owner of vehicle bearing No. AP 7 U

9255, Dachepalli, Guntur District.
15 G. Venkateswarlu, S/o. Nagaiah, Owner of vehicle beariong No. AP 7 U

9758, R/o. Dachepalli, Guntur District.
16 U. Nagaraju, S/o. Pothuraju, Owner of vehicle bearing No.AP 7 U 9615,
R/o. Dachepalli, Guntur District.
17 Ch. Samuel Raju, S/o. Yedukondalu,Owner of vehicle bearing No. AP 7 U

9612, R/o. Dachepalli, Guntur District.
18 U. Venkaiah, S/o. Ramaiah, Owner of vehicle bearing No. AP 7 W 4357,
R/o. Dachepalli, Guntur District.
19 Shaik Nemaligiri Mastan Vali, S/o. China Jamalu, Owner of vehicle bearing

No.AP 36 V 2053 R/o. Dachepalli, Guntur District.
20 D. Venkateswarlu, S/o. Koteswara Rao, Owner of vehicle bearing No. AP 7 W
1648, R/o. Dachepalli, Guntur District.
21 Shaik Saida Vali, S/o. Ismail, Owner of vehicle bearing No.AP 7 V 3400,
R/o. Dachepalli, Guntur District.
22 B. Subba Rao, S/o.Saidaiah, owner of vehicle bearing No.AP 7 W 1694
R/o. Dachepalli, Guntur District.
23 Sri Ramdas Rajaiah, S/o. Kotaiah,Owner of vehicle bearing No. AP 7 W

4284, R/o. Dachepalli, Guntur District.
24 D. Satyanarayana, S/o. Ramaiah, Owner of vehicle bearing No. AP 7 W

3360, R/o. Dachepalli, Guntur District.
25 K. Sambasiva Rao, S/o. Rangaiah, Owner of vehicle bearing No.AP 7 W

2799, R/o. Dachepalli, Guntur District.
26 K Srinivasa Reddy, S/o. Seetharami Reddy, Owner of vehicle bearing No.AP

7 W 3368, R/o. Dachepalli, Guntur District.
27 S. Alivelu Reddy, S/o. Rami Reddy, Owner of vehicle bearing No. AP 24 U

8248, R/o. Dachepalli, Guntur District.
28 P. Chinajanaiah, s/o. China yakub,Owner of vehicle bearing No.AP 11 W

3606, R/o. Dachepalli, Guntur District.
29 K. Ramesh, S/o. Venkatramaiah, Owner of vehicle bearing No. AP 7 W 4380
R/o. Dachepalli, Guntur District.
30 M. Sivaiah, S/o. Pedamattaiah,Owner of vehicle bearing No. AP 26 V 2001,
R/o. Dachepalli, Guntur District.
31 Shaik karimulla, S/o. Imam Sab, Owner of vehicle bearing No. AP 24 U 8360
R/o. Dachepalli, Guntur District.
32 B. Sudhakar, S/o. Rama Rao, Owner of vehicle bearing No.AP 7 W 1961
R/o. Dachepalli, Guntur District.
33 Shaik Amaravathi Hussain, S/o. Asam Ahmed, Owner of vehicle bearing No.

AP 7 W 1985, R/o. Dachepalli, Guntur District.
34 A. Ramaiah, S/o. Kotaiah, Owner of vehicle bearing No. AP 24 U 7837 R/o.

Dachepalli, Guntur District.
35 D. Narasimha Rao, S/o.Ramaiah, Owner of vehicle bearing No. AP 24 U

7780, R/o. Dachepalli, Guntur District.
36 A. Anjaneyulu, S/o. Garavaiah, Owner of vehicle bearing No. AP 7 W 1739,
R/o. Dachepalli, Guntur District.
37 T.Ch. Narsi Reddy, S/o. Pitchi Reddy, Owner of vehicle bearing No.AP 27 U

6808 R/o. Dachepalli, Guntur District.
38 S. Seshagiri Rao, s/o. Venkata Narsaiah, Owner of vehicle bearing No.AP 27

U 8056, R/o. Dachepalli, Guntur District.
39 U. Puspavathi, w/o. Vijayasarathi Reddy, Owner of vehicle bearing No. AP 7

W 3387 R/o. Dachepalli, Guntur District.
40 A. Veeraswamy, S/o. Kondaiah, Owner of vehicle bearing No. AP 36 V 3198
R/o. Dachepalli, Guntur District.
41 G. Mohan Rao, S/o. Satyam, Owner of vehicle bearing No. AP 16 TT 1843,
R/o. Dachepalli, Guntur District.
42 V. Srinivasa Rao, s/o. Venkateswarlu, Owner of vehicle bearing No.AP 7 W

3416, R/o. Dachepalli, Guntur District.
43 P. Srinivasa Reddy, S/o. Subba Reddy,Owner of vehicle bearing No.AP 24 U

9744, R/o. Dachepalli, Guntur District.

..... PETITIONERS

AND

1 The Government of A.P., rep. by its Prl. Secretary,
Transport, Roads & Buildings (TR-II) Dept., Secretariat, Hyderabad.
2 The Secretary, Regional Transport Authority, Narsaraopet, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue any writ or order, direction more particualrly one in the nature of writ of Mandamus, declaring the impugned G.O.Ms.No.152, Transport, Roads & Buildings (TR-II), dt. 01.12.2001 as illegal, arbitrary without jurisdiction and contrary to the 1st schedule of the A.P. Motor Vehicles Taxation Act 1963 and consequently direct the respondents to collect tax of Rs. 1,000/- for the petitioners' vehicles for quarter as per G.O.Ms.No. 216 Transport, Roads & Buildings (TR-II), dt. 04.12.1997 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR. B.CHANDRA SHEKHAR.

Counsel for the Respondents: GP FOR TRANSPORT.

The Court made the following:

COMMON JUDGMENT: (per C.V. RAMULU,J)

In this batch of writ petitions, a common question of law arises for consideration; therefore, they are all being disposed of by this common Judgment.

The case of the petitioners is that they are all owners of different Maxicab vehicles registered with the Department of Transport, Government of Andhra Pradesh. They

all have been granted with permits for plying the same as contract carriages in the State of Andhra Pradesh. They are aggrieved by the issuance of G.O.Ms.No.152, Transport, Roads & Buildings (Tr.II) Department, dated 1-12-2001 wherein while invoking the powers vested under Section 3 of the Andhra Pradesh Motor Vehicles Taxation Act,1963 (Act 5 of 1963) (for short 'the Act') in supersession of the earlier Governmental Orders, the Government of Andhra Pradesh made certain amendments to the notifications issued in G.O.Ms.No.75, Transport, Roads & Buildings (Tr.II) Department, dated 27-4-1993 (as amended from time to time). The amendment, with which we are concerned, is as follows:

AMENDMENT

In the said notification, in the Schedule,--

(1) for item 3 and corresponding entries, the following shall be substituted, namely:-

1. (2)

3. GOODS VEHICLES

……..

(2) in item 4,-

Explanation – V:

Where a conduct is exempted to be carried in a stage carriage, for the words "other than the Driver and Conductor" occurring in item (iv) and (v) shall be constructed as other than driver only.

(VI)(A) Vehicles permitted to carry more than six
persons and plying as contract carriage covered
by All India Tourist permit issued under
Section 88(9) of the Motor Vehicles
Act,1988, for every passenger other
than the Driver and Conductor/Attender
which the vehicle is permitted to carry. 3,500/-

(B) Vehicles permitted to carry more than

six passengers and plying as contract carriages on Intra-State routes for every passenger (other than driver) which the vehicle is permitted to carry. 2,500/-

© Contract carriages plying with the Home District and any one contiguous district for every passenger other than driver. 1,150/-

(D) Idle Contract carriages not covered by any permit plying on the strength of temporary/ special permits issued under section 87 or sub-section (8) of Section 88 of the Motor Vehicles Act.

(E) Contract carriages with a seating capacity of 8 in all to 13 in all covered by Intra-state or Inter-state permit for every passenger other than the driver the vehicle is permitted to carry. 600/-

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The said entry deals with the liability to pay tax of a vehicle with a seating capacity of 7+1 (driver) upto a seating capacity of 12+1 (driver) and for every seat other than the driver Rs.600/- is the tax liability to be paid as quarterly tax. For example, for a contract carriage with a seating capacity of 7+1, the tax payable thereon would be 7x600 = Rs.4,200/- per quarter. It is the case of the petitioners that the issuance of the impugned G.O. is arbitrary, illegal and without jurisdiction and also contrary to the First Schedule appended to the Act and, therefore, they are liable to pay the tax only at the rate of Rs.1,000/- per quarter for Maxicab vehicle as per G.O.Ms.NO.216, Transport, Roads & Buildings (Tr.II) Department, dated 4-12-1997. In the guise of G.O.Ms.No.152, Transport, Roads & Buildings (TR.II) Department, dated 1-12-2001, the respondents are collecting Rs.600/- per seat per quarter for the Maxicab, which is a contract carriage vehicle.

Government of Andhra Pradesh issued G.O.Ms.No.216, Transport, Roads & Buildings (TR.II) Department, dated 4-12-1997 whereby an amendment was made to the First Schedule of the Act by virtue of the powers under sub-Section (1) of Section 17 of the Act. The said amendment reads as under:

> "In the said schedule in item No.4, of the sub-item (vi)(b), the following shall be added in columns (1) and (2) thereof respectively:-
>
> **(vii)** ***maxi cab – vehicles permitted to carry more than 6 passengers but not more than 12 passengers - Rs.1000/-*** "

From the above, it is clear that the maximum tax that is permitted to be levied against a Maxicab, which is permitted to carry more than six (6) passengers, but not more than twelve (12) passengers is only Rs.1,000/- per quarter. Whereas, under the impugned G.O. against the said entry as noted above, the tax liability is fixed at Rs.600/- per seat per quarter for each Maxicab – contract carriage vehicle. This is done without there being any amendment to the very First Schedule to the Act, which is the enabling provision and forms part of the statute itself. In other words, without there being any amendment to the statute, i.e. First Schedule, the issuance of the present amendment to notification under Section 3 of the Act is arbitrary and illegal. The petitioners are liable to pay tax against the Maxicab vehicles only at the rate of Rs.1,000/- per vehicle per quarter. Under the impugned G.O., the respondents are demanding tax of Rs.600/- per seat per quarter. Even if the minimum seating capacity is taken into consideration, i.e. 7 passengers, the total tax comes to Rs.4,200/- per quarter, which is beyond the enabling provision under the First Schedule of the Act. Therefore, the impugned G.O. is illegal, arbitrary and without jurisdiction.

Respondent No.1 filed a detailed counter affidavit denying the allegations made by the petitioner. It is stated *inter alia* that an amendment was brought to 1st schedule to the Act in G.O.Ms.No.216, dated 4-12-1997 fixing Rs.1.000/- per seat per quarter as maximum tax in respect of maxi cabs with seating capacity of 8 in all to 13 in all enabling the Government to notify the rate of tax in respect of maxi cabs. Accordingly, Government has notified Rs.600/- per seat per quarter, which is well within the maximum rate of Rs.1,000/- as provided in the First Schedule to the Act. In the above amendment brought to the First Schedule, the category of Maxi cabs is

added at sub-item (vii) for the time after item 4(vi)(b) which is meant for contract carriages plying within the home district and any one contiguous district specifying the maximum rate of tax per seat per quarter. The maximum rate of tax specified for maxi cabs is per seat per quarter as in the case of contract carriages category shown above to this category, but not per vehicle. It is also asserted that the notification issued in G.O.Ms.No.152, dated 1-12-2001 fixing Rs.600/- per seat per quarter in respect of maxi cabs with seating capacity from 8 in all to 13 in all, is not contrary to the maximum rate specified in the First Schedule to the Act as it is well within the maximum rate of Rs.1,000/- fixed per seat per quarter. The maxi cab being categorized as contract carriage, this category is included in the First Schedule for the first time at sub-item (vii) after another category of contract carriages at item 4(vi)(b) wherein it is clearly mentioned the maximum rate is per seat per quarter. Since the category of maxi cab follows another category of contract carriage in the First Schedule to the Act, the levy of tax per seat per quarter is common to both the categories. The levy of tax at the rate of Rs.600/- per seat per quarter in respect of maxi cabs is within the maximum rate provided in the First Schedule to the Act and well within the provisions of the Act.

However, an additional counter affidavit is filed stating that a mistake has crept into paragraph-4 of the counter affidavit and that the words “in reply to the averments in para 4 of the affidavit, it is submitted that an amendment was brought to the 1st schedule to APMV Taxation Act in G.O.Ms.No.216 Transport, Roads & Buildings (TR.II) Department, dated 4-12-1997 fixing Rs.1000/- per seat per quarter as maximum tax in respect of maxi cabs with seating capacity of 8 in all to 13 in all enabling the Government to notify the rate of tax in respect of maxi cabs” may be read as “in reply to the averments in para 4 of the affidavit, it is submitted that an amendment was brought to the First schedule to APMV Taxation Act in G.O.Ms.No.216 Transport, Roads & Buildings (TR.II) Department, dated 4-12-1997 fixing Rs.1000/- per quarter as maximum tax in respect of maxi cabs with seating capacity of 8 in all to 13 in all enabling the Government to notify the rate of tax in respect of maxi cabs”.

Sri Noushad Ali, learned counsel, led the arguments in this batch of writ petitions on behalf of the petitioners, which were adopted by the other learned counsel.

Sri Noushad Ali while reiterating the stand as was taken in the writ affidavits, contended that under the very First Schedule to the Act the respondents are permitted to impose the tax to a maximum of Rs.1,000/- per quarter for each Maxicab, whereas, the respondents are demanding tax at Rs.600/- per seat per quarter making it to a minimum of Rs.4,200/- per quarter for each Maxicab, which is more than what the enabling clause 4(vii) of the First Schedule to the Act permits. The respondents cannot adopt such a procedure in the guise of a notification under Section 3(2) of the Act unless and until sub-clause (vii) of clause (4) of the very First Schedule is altered as provided under Section 17 of the Act.

May be, in case of even for smaller vehicles, the State is collecting more tax than what is being collected against the maxicab as a contract carriage vehicle. But, that itself does not give a plain power to the authorities to collect tax at the rate of Rs.600/- per seat per quarter for each Maxicab. In fact, the other items of clause (4) of the First Schedule contemplate specifically collecting of tax for every passenger other than the driver, whereas such a specific mention is not there in sub-clause (vii) clause 4 i.e. in respect of Maxicabs. Therefore, it must be deemed that the Legislature in its wisdom has fixed a maximum of Rs.1,000/- as tax for each Maxicab contract carriage vehicle per quarter. In fact, this was added by way of an amendment by G.O.Ms.NO.216, dated 4-12-1997 published in the official gazette dated 12-12-1997. Hence, the impugned G.O. is ultra vires to Clause 4(vii) of the First schedule of the very Act itself.

Learned counsel for the petitioners relied upon the decisions of the Apex Court in **SALES TAX COMMISSIONER v. MODI SUGAR MILLS** and **MATHURAM AGRAWAL v. STATE OF MADHYA PRADESH.**

In **MODI SUGAR MILLS**' case (1 supra) it was held as under:

> "In interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed; it cannot imply anything which is not expressed; it cannot import provisions in the statutes so as to supply any assumed deficiency."

In **MATHURAM AGRAWA**'s case (2 supra), the Supreme Court held as under:

> **"11.** Another question that arises for consideration in this connection is whether sub-section (1) of Section 127-A and the proviso to sub-section (2)(*b*) should be construed together and the annual letting values of all the buildings owned by a person to be taken together for determining the amount to be paid as tax in respect of each building. In our considered view this position cannot be accepted. The intention of the legislature in a taxation statute is to be gathered from the language of the provisions particularly where the language is plain and unambiguous. In a taxing Act it is not possible to assume any intention or governing purpose of the statute more than what is stated in the plain language. It is not the economic results sought to be obtained by making the provision which is relevant in interpreting a fiscal statute. Equally impermissible is an interpretation which does not follow from the plain, unambiguous language of the statute. Words cannot be added to or substituted so as to give a meaning to the statute which will serve the spirit and intention of the legislature. The statute should clearly and unambiguously convey the three components of the tax law i.e. the subject of the tax, the person who is liable to pay the tax and the rate at which the tax is to be paid. If there is any ambiguity regarding any of these ingredients in a taxation statute then there is no tax in law. Then it is for the legislature to do the needful in the matter."

Learned Government Pleader supported the impugned G.O. and contended that there is no necessity of any specific mention as to collecting of tax against each passenger depending upon the capacity of the vehicle (Maxicab). Clause 4(vii) of the First Schedule has to be read along with the general entries made therein and cull out the real meaning of the First Schedule. Merely some words are missing that itself does not confer any right on the petitioners to claim that they are liable to pay tax only at Rs.1000/- per quarter for each Maxicab.

We have given our earnest consideration to the submissions made by both the learned counsel and gone through the material made available on record and also perused the provisions of the Act and the Rules made thereunder from time to time.

At the outset, we may notice certain relevant provisions of the Act, which read as under:

THE FIRST SCHEDULE

-

(Proviso to sub-section (2) of Section 3)

Class of motor vehicles fitted with Maximum quarterly

Pneumatic tyres rate of tax

1……..

2……..

3…….

4. Motor Vehicles plying for hire or used
for transport of passengers and in respect
of which permits have been issued under
the motor Vehicles Act,1988,--

(i) vehicles permitted to carry in all not more
than five persons 500-00

(ii) vehicles permitted to carry more than five
persons but not more than seven persons in all,
for every person, other than the driver which the
vehicle is permitted to carry. 200-00

(iii) vehicle permitted to carry more than six
passengers and plying as stage carriage on
town service routes--

(a) in respect of vehicles permitted to ply as
Express service for every passenger (other
than the driver and conductor) which the
vehicle is permitted to carry 1,200-00

(b) in respect of vehicles permitted to ply as
ordinary services, for every passenger (other
than the driver and the conductor) which the
vehicle is permitted to carry 1,200-00

(iv)Vehicles permitted to carry more than six
passengers and plying as stage carriage on
routes other than town service routes--

(a) in respect of vehicles permitted to ply as
Express Services, for every passenger (other
than the driver and the conductor) which the

vehicle is permitted to carry 1,800-00

(b) in respect of vehicles permitted to ply as ordinary services, for every passenger (other than the driver and the conductor) which the vehicle is permitted to carry 1,200-00

(v)Vehicles permitted to carry more than six passengers and plying as contract carriages for every passenger (other than the driver) which the vehicle is permitted to carry 4,000-00

(vi) (a) Vehicles permitted to carry more than six passengers and plying as contract carriages on inter-state routes on temporary permits under sub-section (8) of Section 88 of the Motor Vehicles Act,1988 and on inter-state routes (within the State of Andhra Pradesh) for every passenger (other than the driver which the vehicle is permitted to carry) 4,000-00

(b) contract carriages plying within the home district and any one contiguous district for every passenger other than driver 4,000-00

(vii) Maxicab-Vehicles permitted to carry more than 6 passengers but not more than twelve passengers. 1,000-00

5 ……

6…….

7…….

8……..

Sections 3 and 7 of the Act read as under:

> "**3. Levy of tax on Motor vehicles:-** (1) The Government may, by notification, from time to time, direct that a tax shall be levied on every motor vehicle used or kept for use, in a public place in the State.
>
> (2) The notification shall be issued under sub-section (1) shall specify the class of motor vehicles on which, the rates for the periods at which, and the date from which, the tax shall be levied.
>
> Provided that the rates of tax shall not exceed the maximum specified in Column (2) of the First Schedule in respect of classes of motor vehicles fitted with pneumatic tyres specified in the corresponding entry in Column (1) thereof; and one and a half times the said maximum in respect of such classes of motor vehicles as are fitted with non-pneumatic tyres.
>
> Provided further that in the case of motor cycles (including motor scooters and cycles with or without attachment), invalid carriages, motor cars and jeeps and other non-transport vehicles not exceeding 2286 Kgs in unladen weight except omni buses and chassis of motor vehicles, the tax shall be levied at the rates specified in the Third Schedule.
>
> Provided also that……..
>
> Provided also that……..
>
> **17. Power to amend Schedules:-** (1) The Government may, by order amend the Schedules.
>
> (2) A draft of any order proposed to be made under sub-section (1) shall be laid on the table of the Legislative Assembly of the State and the order shall not be made, unless the Assembly approves the draft either without any modification or addition or with any modification or addition upon approval, the order may be in the form in which it has been so approved and such order, on being so made, shall be published in the Andhra Pradesh Gazette.
>
> (3) When a Schedule is so amended, any reference to that Schedule in this Act shall be construed as a reference to such Schedule as so amended."

It is true that there is some substance in the submission of the learned counsel for petitioners – Sri Noushad Ali – that against each and every item of clause (4) of the First Schedule to the Act, it is categorically contemplated levying of tax for every passenger as per seating capacity of all the vehicles, except the Maxicab – contract carriage vehicle. But, that itself does not mean that it has to be understood that every contract carriage (Maxicab) carrying passengers 7 to 12 are liable to be levied only a maximum tax of Rs.1,000/- per quarter. If this is to be accepted, it results in absurdity, since against clause 4(i) also, it is stated that the vehicles permitted to carry in all not more than 5 passengers have to pay Rs.500/- per quarter. This, in fact, was also the argument of the learned counsel for the petitioners that the petitioners are taking advantage of the legal flaw in clause 4(vii) of the First Schedule, vis-à-vis the

notification made in G.O.Ms.No.216, dated 4-12-1997.

First, it has to be seen as to whether there is any flaw in clause 4(vii) of the First Schedule i.e. whether it has to be read as an enabling provision for levying tax of a maximum of Rs.1,000/- per Maxicab per quarter, or it has be construed as maximum of Rs.1,000/- per seat per quarter against each Maxicab/contract carriage vehicle. In this regard, the learned Government Pleader relied upon a Judgment of a Division Bench of this Court in **SYED HAFIZ v. LICENSING AUTHORITY** wherein under identical circumstances, it was held as under:

> "**7.** The State Government issued G.O.Ms.No.175 Tr.R&B (Tr.II), dt.28-5-1983 in exercise of the powers conferred by Section 3 of the A.P.Motor Vehicles Taxation Act, the opening para of the notification ordains that "with effect from 1st July,1985, a tax for a quarter shall be levied on every motor vehicle used/kept for use in a public place in the State, at the rates specified in column (2) of the Schedule below in respect of the classes of motor vehicles specified in column (1) thereof". The notification then gives the Schedule. There are two columns in the Schedule – (1) Class of motor vehicle; and (2) Rate of quarter tax for motor vehicle fitted with pneumatic tyres. The relevant item of the paragraph in the notification relating to contract carriages is as follows:
>
> Class of motor vehicle Rate of quarterly tax for
>
> Motor vehicle fitted with pneumatic tyres
>
> ---
>
> 4. (vi)
>
> a. Vehicles permitted to carry more than
>
> Six passengers and plying as contract
>
> carriages Covered under All India
>
> Tourist permits issued under Sec.63(7)
>
> of the Motor Vehicles Act,1939, for
>
> every passenger other than the drive
>
> which the vehicle is permitted to carry. Rs.450-00
>
> b. Vehicles permitted to carry more than six
>
> Passengers, and plying as contract carriages
>
> On inter-state routes on All India Tourist
>
> Permits under Section 63(6) of the Motor

Vehicles Act,1939 (i.e., within the State of

Andhra Pradesh for every passenger other

than driver) which the vehicle is permitted Rs.300-00

to carry.

c. Contract carriages plying within the Home

District and any one contiguous district. Rs.250-00

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8. Obviously, the Licensing Officer applied para 4(vi)(b) of the notification and calculated the rate of tax at Rs.300/- per seat. By multiplying the said figure with 12 representing the number of seats provided to the petitioner's goods vehicle, the tax of Rs.3,600/- per quarter was arrived at by him. In our view, Clause (c) of sub-para (vi) of para 4 of the notification governs the case of the petitioner. That is a specific provision prescribing the rate of tax for the contract carriage plying within the home district and a contiguous district. That the vehicle of the petitioner was being plied within the home district i.e., Chittoor, is not in dispute. If so applying the well known rule of taxation that when there is a general entry and specific entry, the specific entry should be looked into, we take the view that it is not clause (b) of sub-para (vi) that applies but it is clause (c) that comes into play. The problem does not rest there. The learned counsel then argues that the rate of Rs.250/- prescribed by Clause (c) of sub-para (vi) a lumpsum of Rs.250/- for the entire quarter, but it is not per seat…..……..Even for an omnibus with a seating capacity of more than six, which is kept as an idle vehicle without having a particular route permit, the tax prescribed is Rs.45/- per quarter for every person. It would be highly irrational, if not absurd, to suggest that the State Government wanted to prescribe only lumpsum of Rs.250/- per quarter for a contract carriage having permit to ply within the home district and the contiguous district. Keeping this consideration in view, we have to give a reasonable interpretation consistent with the scheme of the notification so as to avoid absurd and anomalous results. We are of the view that the collocation and contextual setting of Clause (c) of sub-para (vi) of para 4 shall be kept in view while ascertaining the measure of tax chargeable. There are three types of contract carriages in sub-paragraph (vi). The first category is the contract carriage plying on All India Tourist Permit. The rate specified in clause (a) is Rs.450/- per quarter for every passenger which it is permitted to carry. The second category of contract carriage is the one plying of an inter-state route on temporary permits and on intra-state route, the rate of tax is Rs.300/-per quarter for every passenger which the vehicle is permitted to carry. Thus, the rate per category (a) contract carriage and category (b) contract carriage is in relation to each passenger and the total tax is arrived at with reference to its seating capacity. The third category is the contract carriage plying within the home district. Though it is not specifically stated in Clause (c) that the rate of this third category is per seat or passenger, in our view, the language used in the preceding two clauses should be read *mutatis mutandis* into the immediately following clause to avoid an interpretation leading to irrational or anomalous consequences.

9. The decision of the Supreme Court in *Hameedia Hardware Stores vs. B.Mohan Lal Sowcar* (AIR 1988 SC 1060) illustrates the point that it is not impermissible to read certain words into a statutory provision having regard to the context and setting and the consequences that might follow from the non-addition of

such words. The Supreme Court held that the *bona fide* requirement envisaged by Clause (ii) of Sec.10(3)(a) of the Tamil Nadu Buildings (Lease and Rent Control) Act,1966 should also be imported into Clause (iii) of the same sub-section though such words were absent in Clause (iii)……."

It is curious to note that earlier when the authorities demanded tax at the rate of Rs.2,500/- per seat per quarter as a pre-condition for issuing the maxicab permits, W.P.No.8456 of 1999 and batch were filed before this Court, which were disposed of by a Division Bench of this Court on 2-6-1999. The petitioners therein pleaded that the tax was being demanded at the rate of Rs.2,500/- per seat per quarter, whereas as per the notification issued in G.O.Ms.No.216, dated 4-12-1997 amending the First Schedule of the Act, the correct tax payable for the Maxicab vehicles permitted to carry more than 6 passengers and not more than 12 passengers is Rs.1,000/- per seat per quarter. This Court found that the transport authorities have demanded tax based on earlier notification issued under Section 3 of the Act and with the amendment of the First Schedule, forming part of the Act, the said notification issued under Section 3 of the Act does not hold field. Hence, the writ petitions were allowed and the respondents were directed to collect tax as per the amendment made to the First Schedule under G.O.Ms.No.216, dated 4-12-1997 i.e. at the rate of Rs.1,000/- per seat per quarter. Be that as it may, the said decision is not having much relevance, since the question arising in these cases, directly did not fall for consideration in that case. But, the Division Bench of this Court in the reported judgment in **SYED HAFIZ**'s case (3 supra) categorically held that the well known rule of taxation law is that when there is a general entry and specific entry, the specific entry should be looked into from the angle of general entry. At this juncture, it may be necessary to notice that clause 4(vii) added to the Schedule by way of an amendment under G.O.Ms.No.216, dated 4-12-1997 has come with effect from 12-12-1997. Before that date, the Maxicabs were being levied tax of Rs.2,500/- per seat per quarter. In fact, what is done by adding clause 4(vii) is, the definition of 'Maxicab' as is available under Section 2(22) of the Motor Vehicles Act,1988 was borrowed. Section 2(22) reads as under:

> "maxicab" means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward."

to add as one of the contract carriage vehicles. In fact, as seen from the items in clause (4) of the First Schedule, they all speak about contract carriages, but one

more category of vehicle was sought to be added for the contract carriages in the First Schedule of the Act for the purpose of levying tax i.e. 'maxicab'. May be, inadvertently, the words 'every passenger' is not reflected in the First Schedule against this item. But, nonetheless the vehicle falls into the category of contract carriage. Therefore, the owners of the Maxicab vehicles cannot ask for a differential treatment. What is applicable to other contract carriage vehicles is equally applicable to the Maxicab – contract carriage vehicle. The term 'contract carriage' is defined under Section 2(7) of the Motor Vehicles Act,1988 as under:

> " 'contract carriage' means a motor vehicle, which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorized by him in this behalf on a fixed or an agreed rate or sum—
>
> a. on a time basis, whether or not with reference to any route or distance; or
>
> b. from one point to another,
>
> and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes—
>
> i. a maxicab; and
>
> ii. a motorcab notwithstanding that separate fares are charged for its passengers"

Therefore, the contention of the learned counsel for the petitioners that the Judgment reported in **SYED HAFIZ**'s case (3 supra) has no application to the facts of the case, cannot be countenanced. Further, the contention of the learned counsel for the petitioners that in the said Judgment, this Court examined only the notification issued under Section 3(1) of the Act and, therefore, such an interpretation as to general entry and specific entry may be permissible, but the same is not permissible in this case, since clause 4(vii) of the First Schedule was added by way of amendment in the year 1997, which is very specific in its nature and the Maxicab itself forms into a different category and classification. It does not form part of any other head of 'classification'. Therefore, the aforesaid judgment is not applicable also would not be countenanced. What is seen is the contextual intention of the legislature. Once against each and every contract carriage the levying of tax was contemplated for every passenger per quarter, the Maxicabs cannot be said to have been differentiated and the tax leviable against the Maxicab is a maximum of

Rs.1,000/- per quarter and not at the rate of Rs.600/- per seat per quarter. Therefore, a harmonious construction needs to be made for the purpose of achieving the objects of the Act. The object of the Act is to levy tax on per seat per quarter in respect of a contract carriage vehicle. As such, the Maxicab owners are also liable to pay tax at the rate of Rs.600/- per seat per quarter for their vehicles as per the impugned notification.

The contention of the learned counsel for the petitioners that the tax laws need to be given a plain and unambiguous meaning - nothing can be added or nothing can be taken away for the purpose of improving the same is without any substance and the Judgment reported in **MODI SUGAR MILLS**'s case (1 supra) has no relevance to the facts of the case. Even the tax laws are liable to be interpreted harmoniously for the purpose of achieving the objects of the Act. Therefore, it cannot be said that the issuance of the impugned G.O. insofar as it relates to Maxicabs are concerned, amounts to supplementing the charging section by including something in the notification issued under Section 3 of the Act, which the statute itself does not contemplate.

Once the entry in clause 4(vii) of the First Schedule is understood as such, it must be deemed that the First Schedule contemplates levying of maximum tax of Rs.1,000/- per seat per quarter. Thus, the impugned notification issued levying tax at the rate of Rs.600/- per seat per quarter cannot be said to be arbitrary or illegal or ultra vires the Act. Therefore, it cannot be said that unless and until the very entry in the First Schedule as existing as on date is not amended as per seat per quarter, the impugned notification is bad. In fact, the collocation and contextual setting up of sub-clause (vii) of clause 4 of the First Schedule shall be kept in mind while ascertaining the measure of tax chargeable against Maxicab/contract carriage.

For all the above reasons, the writ petitions fail and are accordingly dismissed. No order as to costs.

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B.Sudershan Reddy, J

20-4-2005

C.V.Ramulu, J

Prk

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Copies to:

1 The Prl.Secretary, The Government of Andhra Pradesh, Transport, Roads &

Buildings(TR-II) Dept., Secretariat, Hyderabad.
2 The Secretary, Regional Transport Authority, Hyderabad East, Malakpet,

Hyderabad.

3. The Regional Transport Officer, Regional Transport Authority,
Warangal, Warangal District.
4. The Secretary, Regional Transport Authority, Krishna, Vijayawada.
5. The Secretary, Regional Transport Authority, Guntur.

6. The Secretary, Regional Transport Authority,
Mancherial, Adilabad District.
7. The Secretary, Regional Transport Authority,
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Guntur District.

11. The Secretary, Regional Transport Authority, Narsaraopeta, Guntur District.
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13. The Secretary, Regional Transport Authority, Nalgonda, Nalgonda District

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